lated by such rules or orders as may be prescribed or issued by Our Government from time to time.'"

Seconded by Mr. Bensley.

Carried.

SECTION 30.

Mr. Nagam Aiya.—I am rather disappointed to find that the provision regarding the requisition to furnish the ryot's own labour is still retained and that the strong opposition of my friend Mr. Muthunayagom Pillai has resulted only in the omission of the portions relating to the furnishing of labourers. I am decidedly of opinion that impressment of service is highly objectionable. If it does exist anywhere in Travancore I certainly think it should not be legalised. I have already set forth my views in my minute of dissent.

Mr. Thanu Pillai.—The question was discussed threadbare the other day and I do not know whether under the rules we can now seek to set aside the conclusion arrived at by the Council.

Mr. Nagam Aiya.—This is my strong individual conviction and I have placed it before the Council.

SECTION 31.

Read and passed.

SECTION 32.

Read and passed as modified above.

Mr. Thanu Pillai.—I beg to move that a new section be added at the end as follows :—

"No action shall lie against Government for not complying with the application of ryots for the construction, repair, improvement or restoration of any Irrigation work."

The object of this amendment is obvious. The exact position of Government in the matter should be made quite clear where the interests of so many are concerned.

Seconded by Mr. Krishnaswamy Rao.

Carried.

Mr. Thanu Pillai.—I would now move that the Bill as it now stands amended be read again on a future day of which notice shall be given.

The motion was put and agreed to.

WILLS BILL.

Mr. Krishnaswamy Rao.—I think it well to defer the consideration of the Penal Code Bill to another meeting as I am anxious that it should be taken up by a full Council. Not a single non-official member is present to-day.

President.—I think so.

Mr. Krishnaswamy Rao.—Having with the permission of the President undertaken to conduct my friend Mr. Muthunayagom Pillai's Wills Bill through, I beg to move that the Bill be referred to a Select Committee. In so far as it affects the Hindus, the proposed measure does not repeal or modify any rule or principle of the Hindu law. Smrithies are *silent* on the question of Wills. In times when the wishes of the departed were scrupulously carried out by their successors as a matter of religious duty and when heirs felt it to be a great disgrace to themselves and their families to ignore the intentions of their ancestors, the absence of a legal provision for regulating testamentary disposition of property could not have been felt. Shastras inculcate the duty of respecting the wishes of the deceased ancestors as one of great importance. The measure before the Council is, therefore fully in accordance with the spirit of the Hindu Law and is intended to supply a want very

LIBRARY ARCHIVES Kerala Legislative Assembly

generally and keenly felt. The Bill simply seeks to enable a man to bequeath what he could have validly given away as gift during his life time. To make a gift valid, immediate transfer of possession is necessary. None likes to part with the dominion over his property during his life. These circumstances stand in the way of gifts. There must be some means of making gifts which could take effect from the date of the death of the donor and without the necessity for transfer of possession during the donor's life. This could be secured only by empowering Hindus to make Wills. I think that this Council is quite competent to pass this Bill as the Hindu Law is silent on the question of testamentary power. Manu—the highest authority on Hindu Law—says that on points on which Vedas and Smrithies are silent, the usages of good men are authority and in their absence the dictates of conscience and reason are our guides (Chapter II Sloka 6). I need not take up the time of the Council in showing that this measure is reasonable. In British India, the testamentary power exists to the extent mentioned in the Bill. In the case of all those who possess property both in British India and in Travancore and whose number is not inconsiderable, this measure is absolutely necessary to avoid the unseemly conflict between British Indian Law and the Law of Travancore on the subject of testamentary disposition and the consequent confusion of rights. The Travancore High Court, in the judgment referred to by my learned friend Mr. Muthunayagam Pillai, declined to recognize Wills on the grounds that as the Hindu Law was silent on the subject, it was not competent to the courts to *supply the omission* by what is commonly known as 'judge-made Law,' and that the recognition of Wills, in the absence of a statutory provision regulating their execution and attestation, will lead to much mischief. The practice of making Wills is becoming general. I think that the legislation on the subject should not be delayed. It may be necessary for the Select Committee to consider whether some restrictions should not be imposed against the total disinheritance of the natural heirs among Hindus.

In so far as Mahomedans and Christians are concerned, the Bill does not propose to do more than require them to observe certain formalities in the execution of their Wills. As the law now stands, they can make nuncupative Wills. This option opens a wide door for perjury, false bequests and unrighteous litigation. The laws of all the civilized countries require that Wills should be in writing.

Seconded by Mr. Prince.

Carried.

Mr. Krishnaswamy Rao.—I would next move that the Select Committee be composed of Messrs. Thanu Pillai, Ramanatha Rao, Prince and the mover.

Seconded by Mr. Bensley.

Carried.

SHUNGRASOOBYER,
President.

LIBRARY ARCHIVES Kerala Legislative Assembly